

STATE OF CALIFORNIA

CALIFORNIA LAW REVISION COMMISSION

Pre-Print RECOMMENDATION

Obsolete Cross-References to Former Code of Civil Procedure Section 116.780(d)

Note: This is a pre-print report. The Law Revision Commission has approved the substance of this report, but minor editorial changes may be made prior to final publication.

December 2010

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OBSOLETE CROSS-REFERENCES TO FORMER CODE OF CIVIL PROCEDURE SECTION 116.780(d)

1 Code of Civil Procedure Section 116.780 specifies rules applicable to a
2 judgment that is entered after a hearing on a small claims appeal. Two statutory
3 provisions currently refer to subdivision (d) of that section, yet the section no
4 longer has a subdivision (d). The Law Revision Commission recommends that
5 those obsolete cross-references be corrected.¹

6 **Historical Background**

7 Subdivision (d) was added to Section 116.780 in 1991.² At that time, a small
8 claims case was heard in the small claims division of the municipal or justice
9 court,³ which was also known as the “small claims court.”⁴ An appeal from a
10 decision of the small claims court consisted of a retrial in the superior court.⁵
11 Subdivision (d) originally required a superior court to transfer a small claims
12 appeal back to the small claims court for enforcement upon completion of the
13 appeal process.⁶ In 1994, the provision was revised to allow the superior court to
14 retain jurisdiction of the case for ten days following the completion of the appeal
15 process, at which time the case was to be transferred back to the small claims court
16 for enforcement.⁷

17 The justice courts were eliminated soon afterwards, leaving only the municipal
18 and superior courts.⁸ A few years later, the voters approved a measure to permit
19 the municipal and superior courts in each county to unify on a vote of a majority
20 of the municipal court judges and a majority of the superior court judges in the
21 county.⁹ By early 2001, the courts in every county had unified.¹⁰ Each county now

1. This recommendation was prepared pursuant to Government Code Section 8298 and Resolution Chapter 98 of the Statutes of 2009.

2. 1991 Cal. Stat. ch. 915, § 26.

3. See 1990 Cal. Stat. ch. 1305, § 3 (former Code Civ. Proc. § 116.210).

4. The small claims division is frequently referred to as the “small claims court.” See Code Civ. Proc. § 116.210 (“The small claims division may be known as the small claims court.”).

5. *Trial Court Unification: Revision of Codes*, 28 Cal. L. Revision Comm’n Reports 51, 75 (1998).

6. As originally enacted, subdivision (d) stated: “Upon the completion of the appeal process, the superior court shall order the appeal and any judgment transferred to the small claims court in which the action was originally filed for purposes of enforcement and other proceedings under Article 8 (commencing with Section 116.810) of this chapter.” See 1991 Cal. Stat. ch. 915, § 26.

7. As revised, Section 116.780(d) required a transfer to the small claims court “[u]pon the expiration of 10 days following the completion of the appeal process,” instead of “[u]pon the completion of the appeal process.” See 1994 Cal. Stat. ch. 587, § 3 (emphasis added); see also Assembly Committee on Judiciary Analysis of AB 3600 (May 11, 1994), p. 1.

8. 1994 Cal. Stat. res. ch. 113 (SCA 7) (Prop. 191, approved Nov. 8, 1994).

9. Former Cal. Const. art. VI, § 5(c), approved by the voters June 2, 1998 (Proposition 220).

1 has a unified superior court, which handles all of the matters previously heard in
2 municipal court, as well as all of the matters previously heard in superior court.¹¹
3 The municipal courts no longer exist.¹²

4 As a consequence of unification, the small claims court is now a division of the
5 superior court, so a post-appeal transfer from the superior court back to the
6 municipal court system is no longer necessary.¹³ The superior court can simply
7 return the matter to the small claims court, without the jurisdictional and other
8 complications inherent in a transfer between two distinct court systems.
9 Accordingly, Section 116.780 was amended to delete subdivision (d) and allow
10 enforcement proceedings to commence immediately after resolution of a small
11 claims appeal.¹⁴

12 **Obsolete Cross-References**

13 Although Section 116.780 no longer has a subdivision (d), the codes still contain
14 two references to that now-nonexistent subdivision. Those references should be
15 updated.

16 The first such reference appears in Section 116.780 itself. Specifically,
17 subdivision (b) states that “Article 6 (commencing with Section 116.610) on
18 judgments of the small claims court applies to judgments of the superior court
19 after a hearing on appeal, except as provided in subdivisions (c) and (d).” Here,
20 the reference to subdivision (d) should simply be eliminated, because it no longer
21 states a special rule that needs to be recognized as an exception.¹⁵

22 The other obsolete reference appears in Section 116.820(a). There, it is no
23 longer correct to refer to a “transfer to the small claims court under subdivision (d)
24 of Section 116.780.” Instead, the language relating to “transfer” should be deleted,
25 and the rule for a judgment of the superior court after a hearing on appeal should
26 be stated in the same sentence as the rule for a judgment of a small claims court.¹⁶
27 That will properly reflect the post-unification situation.

28 **Effect of the Proposed Legislation**

29 The recommended revisions will help to prevent confusion and thus conserve
30 court and litigant resources. The revisions should be promptly made to achieve
31 these beneficial effects.

10. The courts in Kings County were the last to unify, on February 8, 2001.

11. *Revision of Codes*, *supra* note 5, at 64.

12. *Statutes Made Obsolete by Trial Court Restructuring: Part 3*, 36 Cal. L. Revision Comm’n Reports 305, 309 (2006).

13. See Code Civ. Proc. § 116.210.

14. See 2005 Cal. Stat. ch. 706, § 8; see also Senate Committee on Judiciary Analysis of AB 1742 (July 12, 2005), p. 9; Assembly Committee on Judiciary Analysis of AB 1742 (April 26, 2005), p. 6.

15. See proposed amendment to Code Civ. Proc. § 116.780 *infra*.

16. See proposed amendment to Code Civ. Proc. § 116.820 *infra*.

PROPOSED LEGISLATION

1 **Code Civ. Proc. § 116.780 (amended). Judgment after hearing on small claims appeal**

2 SECTION 1. Section 116.780 of the Code of Civil Procedure is amended to
3 read:

4 116.780. (a) The judgment of the superior court after a hearing on appeal is final
5 and not appealable.

6 (b) Article 6 (commencing with Section 116.610) on judgments of the small
7 claims court applies to judgments of the superior court after a hearing on appeal,
8 except as provided in ~~subdivisions~~ subdivision (c) ~~and (d)~~.

9 (c) For good cause and where necessary to achieve substantial justice between
10 the parties, the superior court may award a party to an appeal reimbursement of (1)
11 attorney's fees actually and reasonably incurred in connection with the appeal, not
12 exceeding one hundred fifty dollars (\$150), and (2) actual loss of earnings and
13 expenses of transportation and lodging actually and reasonably incurred in
14 connection with the appeal, not exceeding one hundred fifty dollars (\$150).

15 **Comment.** Section 116.780 is amended to delete an obsolete reference to subdivision (d),
16 which no longer exists. For the legislation that eliminated subdivision (d), see 2005 Cal. Stat. ch.
17 706, § 8. For the text of that subdivision, see 1994 Cal. Stat. ch. 587, § 3; 1991 Cal. Stat. ch. 915,
18 § 26.

19 **Code Civ. Proc. § 116.820 (amended). Enforcement of small claims judgment**

20 SEC. 2. Section 116.820 of the Code of Civil Procedure is amended to read:

21 116.820. (a) The judgment of a small claims court, or the judgment of the
22 superior court after a hearing on appeal, may be enforced by the small claims court
23 as provided in Title 9 (commencing with Section 680.010) of Part 2 and in
24 Sections 674 and 1174 on the enforcement of judgments of other courts. A
25 judgment of the superior court after a hearing on appeal, and after transfer to the
26 small claims court under subdivision (d) of Section 116.780, may be enforced like
27 other judgments of the small claims court, as provided in Title 9 (commencing
28 with Section 680.010) of Part 2 and in Sections 674 and 1174 on the enforcement
29 of judgments of other courts.

30 (b) The clerk of the court shall charge and collect all fees associated with the
31 enforcement of judgments under Title 9 (commencing with Section 680.010) of
32 Part 2. The clerk shall immediately deposit all the fees collected under this section
33 into a bank account established for this purpose by the Administrative Office of
34 the Courts. The money shall be remitted to the State Treasury under rules adopted
35 by, or trial court financial policies and procedures authorized by, the Judicial
36 Council under subdivision (a) of Section 77206 of the Government Code. The
37 Controller shall distribute the fees to the Trial Court Trust Fund as provided in
38 Section 68085.1 of the Government Code.

1 (c) The prevailing party in any action subject to this chapter is entitled to the
2 costs of enforcing the judgment and accrued interest.

3 **Comment.** Section 116.820 is amended to delete obsolete language referring to a transfer
4 “under subdivision (d) of Section 116.780.”

5 In the past, subdivision (d) of Section 116.780 required a superior court to transfer a small
6 claims appeal to the small claims court for enforcement after the superior court resolved the
7 appeal. See 1994 Cal. Stat. ch. 587, § 3; 1991 Cal. Stat. ch. 915, § 26. Such a transfer was
8 necessary before the municipal and superior courts unified, because the small claims court was a
9 division of the municipal court, not the superior court.

10 Now that the trial courts have unified, the small claims court is a division of the superior court.
11 See Code Civ. Proc. § 116.210. Upon resolving a small claims appeal, it is no longer necessary to
12 effect a transfer to the municipal court system. Accordingly, Section 116.780 was amended to
13 delete subdivision (d). See 2005 Cal. Stat. ch. 706, § 8. Section 116.820 is now amended to
14 reflect that development.
